UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

CARL B. JOHNSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:09CV00919 ERW
)	
DAVE DORMIRE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Mary Ann Medler [doc. #10], pursuant to 28 U.S.C. § 636(b). The Court notes that no objections were filed to Magistrate Judge Medler's Report and Recommendation. After consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate's Report and Recommendation regarding Petitioner's Motion Requesting a Stay and Abeyance.

Also before the Court is Petitioner Carl B. Johnson's Motion to Withdraw Federal Habeas Corpus Petition [doc. #11]. In the Report and Recommendation adopted by this Court, Magistrate Judge Medler gave Petitioner the option of withdrawing his § 2254 Petition and refiling upon exhaustion of his State remedies, or of filing an amended Petition that does not include unexhausted claims. Petitioner elected to file the pending Motion to Withdraw his Federal Habeas Corpus Petition. The Court will allow Petitioner to withdraw his Petition.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Carl B. Johnson's Motion Requesting a Stay and Abeyance [doc. #9] is **DENIED**.

IT IS FURTHER ORDERED that Petitioner Carl B. Johnson's Motion to Withdraw Federal Habeas Corpus Petition [doc. #11] is **GRANTED**. Petioner's Federal Habeas Corpus Petition is **DISMISSED**, without prejudice.

IT IS FURTHER ORDERED that Petitioner Carl B. Johnson's Motion for Appointment of Counsel and Affidavit in Support [doc. #4] is **DENIED**, **as moot**.

Dated this 29th Day of July, 2009.

E. RICHARD WEBBER

UNITED STATES DISTRICT JUDGE